

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RENEE K. TRIMBUR, ET AL.,)	CASE NO. 2:13-CV-0160
)	
Plaintiffs,)	JUDGE EDMUND A. SARGUS, JR.
)	
v.)	MAGISTRATE JUDGE NORAH
)	MCCANN KING
)	
NORFOLK SOUTHERN RAILWAY)	
COMPANY, ET AL.)	<u>AFFIDAVIT OF</u>
)	<u>DAVID SCHOENDORFER, CHMM</u>
Defendants)	

DAVID SCHOENDORFER, CHMM, being first duly sworn according to law, deposes and states as follows:

1. I am currently employed as a Manager of Hazardous Materials for Norfolk Southern. I similarly held this title at the time of the train derailment that is the subject of *Trimbur, et al. v. Norfolk Southern Railway Company, et al.*
2. I base this Affidavit upon my personal knowledge.
3. On July 11, 2012, three DOT-111A100W1 tank cars containing denatured ethanol (Alcohol, N.O.S.) were present on train 186L809 at the time the train derailed. These tank cars were identified as NATX 364017, NATX 364083, and NATX 364118.
4. Neither Norfolk Southern Railway Company ("NSRC"), nor Norfolk Southern Corporation ("NSC"), designed, manufactured, leased, owned, or maintained tank cars NATX 364017, NATX 364083, and NATX 364118. American Railcar Industries ("ARI")

manufactured these tank cars in 2007 for General Electric Capital Railcar ("GE"). GE was the owner of the tank cars on July 11, 2012.

5. Tank cars NATX 364017, NATX 364083, and NATX 364118 were certified as qualified for use in transporting hazardous materials such as denatured ethanol, as reflected in the 2007 ARI Application for Approval and Certificate of Construction for these cars.

6. A true and accurate copy of the ARI Application for Approval and Certificate of Construction for NATX 364017, NATX 364083, and NATX 364118 is attached hereto. As noted on the Certificate, the Association of American Railroads ("AAR") Tank Car Committee approved ARI's Application on June 8, 2007. Further, ARI certified that the tank cars conformed "to all applicable DOT and AAR requirements."


7. On July 3-4, 2012, a third party (unrelated to NSRC and NSC) inspected, loaded, and offered tank cars NATX 364017, NATX 364083, and NATX 364118 into service in Cedar Rapids, Iowa. The cars were bound for a facility in Roanoke, Virginia. A true and accurate copy of the relevant Straight Bills of Lading is attached hereto.

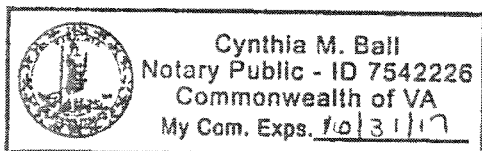
8. NSRC accepted the referenced tank cars in interchange from another railroad in Chicago, Illinois, on or about July 10, 2012.

FURTHER AFFIANT SAYETH NAUGHT.


DAVID SCHOENDORFER, CHMM

SWORN TO BEFORE ME and subscribed in my presence this 25 day of July, 2014.


Notary Public



APPLICATION FOR APPROVAL AND CERTIFICATE OF CONSTRUCTION

Page 1 of 2

1 APPROVAL REQUESTED OF: ☐ PRECEDENT ☒ NONPRECEDENT
 2 TYPE: ☒ CONSTRUCTION ☐ WELDED REPAIRS ☐ ALTERATION ☐ OTHER
 3 AAR NO. 1071000C
 4 DATE: Orig 3/4/07 Rev C 6/8/07
 5 APPLICANTS NO. 28-70064
 6 APPLICANT: ARI
100 Clark St., St. Charles, MO 63301-2076
 7 TANK SPECIFICATION: DOT 111A100W1
 8 STENCILED SPEC.: DOT 111A100W1
 9 REPORTING MARKS & CAR NUMBERS NATK 364000 - 364499
 10 NUMBER OF CARS 500

11	Initial commodity	See Notes	12	Density, lb., per gal.	6.67
13	Full water capacity, gal	30,000	14	Dome capacity or outage, gal.	Complies w/DOT 173.24b
15	Material type and grade—heads	AAR TC128 Gr. B Norm	16	Material type and grade—shell	AAR TC128 Gr. B Norm
17	Material thickness—heads, in.	7/16	18	Material thickness—shell, in.	7/16
19	Lining type	-----	20	Inside diameter—center, in.	119 1/8
21	Inside diameter—end rings, in.	119 1/8	22	Head radius, main, in. (if not 2:1)	-----
23	Test pressure, psi	165	24	Insulation type	None
25	Insulation thickness, in.	-----	26	Thermal conductivity, Btu-in/hr—ft ² -F	-----
27	Type and number of pressure relief devices	Valve (1)	28	Pressure relief device start-to-discharge, psi	75
29	Pressure relief device flow capacity, cfm required	20,520 (A8.1.1.1a)	30	Pressure relief device flow capacity, cfm, actual	21,602
31	Tank surface area, sq. ft.	1761	32	Underframe or stub sill type	ARI 300 (Fig. 1)
33	Center of gravity, loaded, in.	90.49*	34	Est. light weight, lb.	67,000
35	AAR clearance diagram	C	36	Rail load limit, lb.	263,000 **
37	Truck capacity, tons	100	38	Head shields	-----

Notes: *Spring Travel 3 11/16".

ETHANOL and products authorized by DOT Part 173 for which there are no special commodity requirements and non-regulated commodities compatible with this class of car.

** Future operation of these cars for unlimited interchange at 286K GRL would require Trucks to fully comply with M-976, cars to comply with S-286 and M1002 Para. 1.3.16, and be marked as Class AAR-211.

Original Certificate _____
 Builder _____
 Date _____
 Former lading _____

The Following Drawings Apply:

38 General Arrangement.....
 40 Tank Arrangement.....
 41 Reinforced Openings, Including Calculations...
 42 Anchorage, Including Calculations.....
 43 Fittings Arrangement.....
 44 Manway Assembly.....
 45 Protective Housing.....
 46 Venting, Loading, and Discharge Valves.....
 47 Pressure Relief Devices.....Midland
 48 Heater Systems (Int. ☐ Ext. ☐.....
 49 Gauging Devices.....
 50 Bottom Outlet Valve...Midland - (10 cars)
 & ARI... (490 cars)..
 51 BOV Arrangement.....Midland (10 cars)
 & ARI... (65 cars)
 & ARI... (425 cars)
 52 Manway Cover.....
 53 Calculations.....
 54 Tank Qualification Drawing.....

Drawing Number	The Following Prior Approvals Apply:	
	Drawing Number	Application/Certificate No.
See Page 2		
See Page 2		
See Page 2		
5-W-7468-00-C	5-W-7468-00-A	L061013
See Page 2		
5-W-6186-01-E2	5-W-6186-01-C1	L061013
See Item 46		
See Page 2		
A-2097		PRD022004
None		
Visual Gauge Bar		
A-520-C1-SH-CS		E022012
ARI - 2040		E041023
5-W-8852-00-C		
5-W-9470-00-A1		
5-W-9470-01-A1		
5-K-2329-00-G	5-K-2329-00-G	L061013
ACF Service Bulletin TC14		L061013

REVISIONS: Line 30 was 20,464. Line 47 was Midland A-2095. Rev A: Line 46 A, 3" and 2" valve description was "2236-MT".
 Rev B: Line 9 was TBD. Line 40.C. was 5-W-8886-00-A. Line 50, and 51 was only Midland Valve.
 Rev C: Line 9 was 364000 - 364449

APPLICATION BY: C. A. Edmonds

I certify that the foregoing conforms to all applicable DOT and AAR requirements, including specifications, regulations, rules of interchange, and the DOT Railroad Safety Appliance Standards.

SIGNATURE C. A. Edmonds
 TITLE Mngr Tank Car Engineering

Date of Order: 8/15/2006

APPROVAL—AAR Tank Car Committee

Date Approved

JUN 08 2007

(Signature) on behalf of Tank Car Committee

CERTIFICATION: The cars enumerated below conform to the above approved description and to all applicable DOT and AAR requirements, including specifications, regulations, rules of interchange, and the DOT Railroad Safety Appliance Standards. Copy of this Certificate of Construction will be furnished to the owner and others as required by 49 CFR Part 179.5 before these cars are placed in service.

Initials and Car Numbers:

Name Jul Lickler
 Title Manager, Quality Assurance

Date

10/19/07

AAR No. L071000CApplicant's No. 28-70064Date Orig 3/4/07 Rev C 6/6/07

The following items and item numbers refer to like item numbers on Page 1.

39. General Arrangement: 5-W-8813-00-A
Same as 5-W-7872-00-A (L0610013), except for minor change to length over head weld seams.
40. Arrangement, Tank:
A. Tank Arrangement: 5-W-3578-00-C
Same as 5-W-3578-00-A (L041017A) except for minor changes.
B. Fit Arrangement: 5-W-6819-04-C1
Same as 5-W-6819-00-B (L061013), except for minor welding updates.
C. Welded Attachment: 5-W-8888-00-B, same as 5-W-7841-00-A (L061013) except for minor changes resulting from measurements taken from head seam weld, and additional pads for BOV handle support.
41. Reinforced Openings, Including Calculations:
A. 20 in. Manway Nozzle Reinf.: 5-U-8291-01-A13 (L061013)
B. 15" Top Unloading Nozzle Reinf.: 5-W-3995-01-A2 (L061013)
C. 6.50 in. SRD Nozzle Reinf.: 5-U-8423-01-D (L061013)
D. BOV Flange Reinf.: 5-V-8085-08-H1
Same as 5-V-8058-08-H (L061013)
E. Sump/Skid: 5-V-9041-00-F (L061013)
43. Fittings Arrangement:
A. 5-W-8850-00-A: Same as 5-W-7474-00-A (L061013) except for different valve manufacturers, and an extended BOV handle.
46. Venting, Loading and Discharge Valves:
A. Top Unloading Arrangement: 5-W-8851-01-B:
Same as 5-W-7473-00-A (L061013), except for valve manufacturers.
3" Jamesbury Ball Valve 6FR-3600-MT (E-989012)
2" Jamesbury Ball Valve 6FR-3600-MT (E-989012)
B. Gasket Arrangement 4-W-8865-00-A
C. Torque Arrangement 5-W-6029-00-B (L061013)

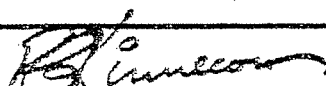
APPLICATION BY: C. A. Edmonds

I certify that the foregoing conforms to all applicable DOT and AAR requirements, including specifications, regulations, rules of interchange, and the DOT Railroad Safety Appliance Standards.

SIGNATURE TITLE Mngr Tank Car Engineering

APPROVAL—AAR Tank Car Committee

Date Approved

JUN 08 2007
(signature) on behalf of the Tank Car Committee

ATTACHMENT A - AAR APPLICATION NO. L071000 (Page 15)

REFERENCE LOT 28-70064

Cars Ready to Ship

NATX 364273

Signature 
Manager, Quality Assurance

Date 10/17/07

Cars Ready to Ship

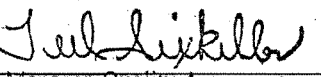
NATX 364291

Signature 
Manager, Quality Assurance

Date 10/18/07

Cars Ready to Ship

NATX 364276, 364284, 364286

Signature 
Manager, Quality Assurance

Date 10/19/07



BOL No: 1369006

Straight Bill of Lading - Original - Not Negotiable

Ship Date: 7/4/2012

To Consignee: Eco-Energy, Inc. Sold To: Eco-Energy, Inc. Sales Contract: NOR12BD00001 Their Contract: Destination: Roanoke, VA - NS TBT 810 Hollins Road Roanoke, VA 24012 Routing: Cedar Rapids, IA to Roanoke, VA : NS		From Shipper: Penford Products Co. Origin: Cedar Rapids, IA - Penford Products 1001 1st St. SW Cedar Rapids, IA 52404 Contract No: PEN12TP00023	
Notes:		Comments:	
28,440 Net GAL	HM X	Description of Articles UN1987, Alcohols N.O.S., (Denatured Ethanol), 3, PG II, STCC4909152 1 TC	Origin Release No.
29,005 Gross GAL			Customer PO No. EXX12TS00019
Time Loaded: 04:59		Seals: 058334/058335/058336	Vehicle: NATX364017
Seals: 058334/058335/058336		Group:	

Certificate of Analysis ASTM 4806-10b				
Meter Ticket: 21798	Temp: 91°F	Net Vol: 28440	Gross Vol: 29005	Scale:
Source Tank: Rail Loadout - Penford		By: TM	Test Date:	
Quality	Range	Result	UOM	Testing Method
Acidity	(0 to 0.007)	0.0030	%	ASTM D1613
Apparent Proof	(200 to 203)	200.6	%	
Aromatic Hydrocarbon Content	(0 to 1.7)	0.20	%	ASTM D5580-95
Benzene Content	(0 to 0.06)	0.01	%	ASTM D5580-95
Copper Content	(0 to 0.08)	0.03	ppm	ASTM D1688
Denaturant Content	(1.96 to 2.5)	2.00	%	
Ethanol Content	(93.5 to 100)	96.9	%	ASTM D5501
Inorganic Chloride Content	(0 to 32)	1	ppm	ASTM D7319
Methanol Content	(0 to 0.5)	0.05	%	ASTM D5501
Olefins Content	(0 to 0.5)	0.02	%	ASTM D5501
PHE	(6.5 to 9)	8.3		ASTM D6423
Water Content	(0 to 1)	0.23	%	ASTM E203 or E1064
Solvent-washed Gum	(0 to 0.5)	0.5	ppm	ASTM D381, Air Jet Apparatus
Sulfate Content	(0 to 4)	0.0	ppm	ASTM D7318
Sulfur Content	(0 to 10)	1	ppm	ASTM D5453-93
Visual Appearance	(0 to 0)	clear/bright		

Received, subject to classifications and lawfully filed tariffs in effect on the date of the issue of this Bill of Lading, the property described above is in apparent good order, except as noted (contents and conditions of packages unknown), marked, consigned and destined as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its route to destination and as each party at any time interested in all of any of said property, that any service to be performed hereunder shall be subject to all of the bill of lading terms and conditions in the governing classification of the date of. Shipper hereby certifies that he is familiar with all of the bill of lading terms and conditions of the governing classification and the said terms and conditions are hereby agreed by the shipper and accepted to himself and his assigns. This ethanol meets the standards for denatured ethanol intended for use as a blend component in California gasoline.

From Shipper: Penford Products Co.

Carrier: NS

Per:

Per:

IN CASE OF EMERGENCY CONTACT CHEMTREC 1-800-424-9300 24 HRS

Date: 7/4/2012

Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations. Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (1.72.604) **This to certify that herein named materials are properly classified, described, packaged, marked, and labelled and in proper condition for transportation according to the applicable regulations of the Department of Transportation**



BOL No: 1369007

Straight Bill of Lading - Original - Not Negotiable

Ship Date: 7/4/2012

To Consignee: Eco-Energy, Inc. Sold To: Eco-Energy, Inc. Sales Contract: NOR12BD00001 Their Contract: Destination: Roanoke, VA - NS TBT 810 Hollins Road Roanoke, VA 24012 Routing: Cedar Rapids, IA to Roanoke, VA : NS		From Shipper: Penford Products Co. Origin: Cedar Rapids, IA - Penford Products 1001 1st St. SW Cedar Rapids, IA 52404 Contract No: PEN12TP00023	
Notes:		Comments:	
28,457 Net GAL	HM X	Description of Articles UN1987, Alcohols N.O.S., (Denatured Ethanol), 3, PG II, STCC4909152 1 TC	Origin Release No.
28,998 Gross GAL			Vehicle: NATX364083
		Customer PO No. EXX12TS00019	
Time Loaded: 06:29		Seals: 058336/058337/058338	Group:

Certificate of Analysis ASTM 4806-10b				
Meter Ticket: 21800	Temp: 89°F	Net Vol: 28457	Gross Vol: 28998	Scale:
Source Tank: Rail Loadout - Penford		By: DF	Test Date:	
Quality	Range	Result	UOM	Testing Method
Acidity	(0 to 0.007)	0.0038	%	ASTM D1613
Apparent Proof	(200 to 203)	200.8	%	
Aromatic Hydrocarbon Content	(0 to 1.7)	0.20	%	ASTM D5580-95
Benzene Content	(0 to 0.06)	0.01	%	ASTM D5580-95
Copper Content	(0 to 0.08)	0.03	ppm	ASTM D1688
Denaturant Content	(1.96 to 2.5)	2.39	%	
Ethanol Content	(93.5 to 100)	97.0	%	ASTM D5501
Inorganic Chloride Content	(0 to 32)	1	ppm	ASTM D7319
Methanol Content	(0 to 0.5)	0.05	%	ASTM D5501
Olefins Content	(0 to 0.5)	0.02	%	ASTM D5501
PHE	(6.5 to 9)	8.3		ASTM D6423
Water Content	(0 to 1)	0.18	%	ASTM E203 or E1064
Solvent-washed Gum	(0 to 0.5)	0.5	ppm	ASTM D381, Air Jet Apparatus
Sulfate Content	(0 to 4)	0.0	ppm	ASTM D7318
Sulfur Content	(0 to 10)	1	ppm	ASTM D5453-93
Visual Appearance	(0 to 0)	clear/bright		

Received, subject to classifications and lawfully filed tariffs in effect on the date of the issue of this Bill of Lading, the property described above is in apparent good order, except as noted (contents and conditions of packages unknown), marked, consigned and destined as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its route to destination and as each party at anytime interested in all of any of said property, that any service to be performed hereunder shall be subject to all of the bill of lading terms and conditions in the governing classification of the date of. Shipper hereby certifies that he is familiar with all of the bill of lading terms and conditions or the governing classification and the said terms and conditions are hereby agreed by the shipper and accepted to himself and his assigns. This ethanol meets the standards for denatured ethanol intended for use as a blend component in California gasoline.

From Shipper: Penford Products Co.

Carrier: NS

Per:

Per:

IN CASE OF EMERGENCY CONTACT CHEMTREC 1-800-424-9300 24 HRS

Date: 7/4/2012

Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations. Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (1.72.604) **This to certify that herein named materials are properly classified, described, packaged, marked, and labelled and in proper condition for transportation according to the applicable regulations of the Department of Transportation**



BOL No: 1369004

Straight Bill of Lading - Original - Not Negotiable

Ship Date: 7/3/2012

To Consignee: Eco-Energy, Inc. Sold To: Eco-Energy, Inc. Sales Contract: NOR12BD00001 Their Contract: Destination: Roanoke, VA - NS TBT 810 Hollins Road Roanoke, VA 24012 Routing: Cedar Rapids, IA to Roanoke, VA : NS		From Shipper: Penford Products Co. Origin: Cedar Rapids, IA - Penford Products 1001 1st St. SW Cedar Rapids, IA 52404 Contract No: PEN12TP00023	
Notes:		Comments:	
28,400 Net GAL	HM X	Description of Articles UN1987, Alcohols N.O.S., (Denatured Ethanol), 3, PG II, STCC4909152 1 TC	Origin Release No.
28,995 Gross GAL			Vehicle: NATX364118
Time Loaded: 19:21		Seals: 058270/058331/058332	Customer PO No. EXX12TS00019
		Group:	

Certificate of Analysis ASTM 4806-10b				
Meter Ticket: 21797		Temp: 92°F	Net Vol: 28400	Gross Vol: 28995
Source Tank: Rail Loadout - Penford		By: jl	Test Date:	Scale:
Quality	Range	Result	UOM	Testing Method
Acidity	(0 to 0.007)	0.0030	%	ASTM D1613
Apparent Proof	(200 to 203)	200.8	%	
Aromatic Hydrocarbon Content	(0 to 1.7)	0.20	%	ASTM D5580-95
Benzene Content	(0 to 0.06)	0.01	%	ASTM D5580-95
Copper Content	(0 to 0.08)	0.03	ppm	ASTM D1688
Denaturant Content	(1.96 to 2.5)	2.37	%	
Ethanol Content	(93.5 to 100)	97.0	%	ASTM D5501
Inorganic Chloride Content	(0 to 32)	1	ppm	ASTM D7319
Methanol Content	(0 to 0.5)	0.05	%	ASTM D5501
Olefins Content	(0 to 0.5)	0.02	%	ASTM D5501
PHE	(6.5 to 9)	8.7		ASTM D6423
Water Content	(0 to 1)	0.17	%	ASTM E203 or E1064
Solvent-washed Gum	(0 to 0.5)	0.5	ppm	ASTM D381, Air Jet Apparatus
Sulfate Content	(0 to 4)	0.0	ppm	ASTM D7318
Sulfur Content	(0 to 10)	1	ppm	ASTM D5453-93
Visual Appearance	(0 to 0)	clear/bright		

Received, subject to classifications and lawfully filed tariffs in effect on the date of the issue of this Bill of Lading, the property described above is in apparent good order, except as noted (contents and conditions of packages unknown), marked, consigned and destined as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its route to destination and as each party at anytime interested in all of any of said property, that any service to be performed hereunder shall be subject to all of the bill of lading terms and conditions in the governing classification of the date of. Shipper hereby certifies that he is familiar with all of the bill of lading terms and conditions or the governing classification and the said terms and conditions are hereby agreed by the shipper and accepted to himself and his assigns. This ethanol meets the standards for denatured ethanol intended for use as a blend component in California gasoline.

From Shipper: Penford Products Co.

Carrier: NS

Per:

Per:

IN CASE OF EMERGENCY CONTACT CHEMTREC 1-800-424-9300 24 HRS

Date: 7/3/2012

Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations. Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (1.72.604) **This to certify that herein named materials are properly classified, described, packaged, marked, and labelled and in proper condition for transportation according to the applicable regulations of the Department of Transportation**